



THOMAS L. GARTHWAITE, M.D.
Director and Chief Medical Officer

FRED LEAF
Chief Operating Officer

COUNTY OF LOS ANGELES
DEPARTMENT OF HEALTH SERVICES
313 N. Figueroa, Los Angeles, CA 90012
(213) 240-8101

BOARD OF SUPERVISORS

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April 7, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

NEW PHYSICIAN SPECIALTY MEDICAL SERVICES AGREEMENTS
(2nd District) (3 Votes)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Make a finding that certain specialty medical services provided on a full-time basis, as described in the second Recommendation immediately below, can be performed more economically by contracting with the private sector under County Code Section 2.121.280; and that these critically needed Proposition A services provided by individual practitioners shall be exempt from a formal bidding or competitive negotiation process because to conduct a formal competitive process to select individual physician specialists would cause an adverse impact on the continuity of patient care at the Department of Health Services facility and would not guarantee the generation of a comprehensive list of available and qualified physicians and other medical practitioners in the particular specialty needed at any given time to cover all of the critical staffing needs that may arise on short notice at the County health facility.
2. Approve and instruct the Board Chair to sign three physician specialty medical services agreements, substantially similar to Exhibit I, which are in compliance with the provisions of Proposition A under County Code Section 2.121, with the contractors identified in Attachment A, which have been determined to be cost-

effective under Proposition A guidelines, effective upon Board approval through June 30, 2009, for the provision of physician emergency medicine services at Martin Luther King, Jr./Drew Medical Center, at an estimated annual net County cost of \$600,000.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS:

Board approval is required for new specialty medical services agreements for full-time physician services determined to be in compliance with the provisions of Proposition A. Approval of the requested actions will provide full-time emergency medicine services to patients at Martin Luther King, Jr./Drew Medical Center (KDMC).

FISCAL IMPACT/FINANCING:

The total estimated cost for a full 12-month period is \$600,000. The total cost for the period of April 19, 2005 through June 30, 2005 of Fiscal Year (FY) 2004-05 is estimated to be \$125,000. Funding is included in the FY 2004-05 Adopted Budget and will be requested in future fiscal years.

The hourly rates for the requested Agreements are on file with the Department of Health Services (Department) and kept confidential in accordance with section 1457 of the California Health and Safety Code. The recommended rates have been shared with each Board Office, the Chief Administrative Office, and County Counsel.

FACTS AND PROVISIONAL/LEGAL REQUIREMENTS:

On June 29, 2004, the Board approved the renewal of the physician specialty medical services contract program for a new five-year term, effective July 1, 2004 through June 30, 2009.

The recommended contractors listed in Attachment A are American Board of Medical Specialties-certified emergency medicine physician specialists recruited to replace three emergency medicine physician specialists who did not renew their physician specialty medical services agreements that expired on June 30, 2004.

The Department has analyzed the recommended Agreements using the same methodology used by the Audit Division of the Department of the Auditor-Controller and determined that the Agreements are cost-effective and therefore in compliance with the requirements of Proposition A. The physicians will be working at least 1,682 hours per year which is equivalent to a full-time County employee (according to Auditor-Controller Proposition A guidelines), but at a lesser rate than would be paid to a County employee for equivalent services, thus representing a cost savings to the County.

The Department has made the determination that it is not feasible to conduct a formal bidding or competitive negotiation process for physician contracts otherwise in compliance with Proposition A. Under County Code section 2.121.350, a contract may be made by noncompetitive negotiation when competition is not feasible. The Department maintains that it is not feasible to conduct either a formal bidding or competitive negotiation process to select individual physician specialists without causing an adverse impact on the continuity of patient care at the health facility.

Board approval of the requested actions will authorize the Director of Health Services to terminate the Agreement as necessary, pursuant to specific contract provisions, and to report to the Board any such action should it occur. Under the termination provisions of the Agreement, the Agreement may be terminated immediately for breach or for convenience with a 30-day advance written notice by either party.

Consistent with the other specialty medical services agreements, the County will provide medical defense and malpractice indemnification of these contractors.

Attachment A provides additional information.

Exhibit I has been approved as to use and form by County Counsel.

CONTRACTING PROCESS:

The contractors identified in Attachment A were required to complete certification questionnaires to determine medical practice history, including the occurrence of any disciplinary action by the State Medical Board (i.e., licensure revocation, suspension or probation), professional malpractice judgment or settlements, exclusion from participation in a federally funded health care program, or termination of a County contract for quality of care reasons. Additionally, the Department queried the National Data Bank and the State Medical Board (or other State regulatory agency) to determine whether the contractors have any disciplinary or malpractice history over the immediate prior three years.

The physicians providing services under the recommended Agreements must: 1) be either American Board of Medical Specialties-certified or eligible in their area of specialty; 2) meet the credentialing requirements of the County hospital, which includes a review of the physician's malpractice history; 3) apply for and be granted medical staff privileges; and 4) comply with the Professional Staff Association Bylaws of the County hospital.

The Honorable Board of Supervisors
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IMPACT ON CURRENT SERVICES (OR PROJECTS):

Board approval of the recommended actions will ensure that emergency medicine services will be available to County patients at KDMC.

When approved, this Department requires three signed copies of the Board's action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas L. Garthwaite".

Thomas L. Garthwaite, M.D.
Director and Chief Medical Director

TLG:pps

Attachments (2)

c: Chief Administrative Officer
County Counsel
Executive Officer, Board of Supervisors

BLETCD3861.PPS

SUMMARY OF AGREEMENT

1. Type of Service:

Physician Specialty Medical Services Agreements at King/Drew Medical Center.

2. Contractor:

Specialty Service:

Gary Godorov, M.D.

John Udeani, M.D.

Nabil Emmad, M.D.

Emergency Medicine Services

Emergency Medicine Services

Emergency Medicine Services

3. Term:

Date of Board approval through June 30, 2009.

4. Financial Information:

The total estimated cost for a full 12-month period is \$600,000. The total cost for the period of April 19, 2005 through June 30, 2005 of Fiscal Year (FY) 2004-05 is estimated to be \$125,000. Funding is included in the FY 2004-05 Adopted Budget and will be requested in future fiscal years.

5. Geographic Areas To Be Served:

South Los Angeles.

6. Accountability for Monitoring:

Department of Health Services Facility Administrator.

7. Approvals:

Chief Operating Officer:

Fred Leaf

Contracts and Grants Division:

Cara O'Neill, Chief

County Counsel (approval as to form):

Sharon A. Reichman, Principal Deputy County Counsel

EXHIBIT I

Contract # _____
(Physician Services-Prop A)
(All Facilities)

PHYSICIAN SPECIALTY MEDICAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this _____ day
of _____, 2005,

by and between the COUNTY OF LOS ANGELES
(hereafter "County"),
and
(hereafter "Contractor").

WHEREAS, pursuant to California Health and Safety Code, Sections 1441 and 1445, County has established and operates, through its Department of Health Services, various County hospitals, comprehensive health centers and health centers, including MARTIN LUTHER KING, JR./DREW MEDICAL CENTER (hereafter "Medical Facility"); and

WHEREAS, a large number of physician specialty medical services must be available to meet the needs of sick or injured County patients requiring treatment at Medical Facilities; and

WHEREAS, County has determined that it has insufficient physician staff to provide all of the necessary specialty medical services required for its patients; and

WHEREAS, pursuant to Section 44.7 of the Los Angeles County Charter as implemented by Los Angeles County Code Section 2.121.250 et seq., County is authorized to contract with private

businesses to perform personal services when it is more economical or feasible to do so; and

WHEREAS, Contractor has been selected by the Department of Health Services in accordance with procedures established by the Board of Supervisors to fill a critically needed specialty position at Medical Facility (applicable only to new agreements with physician contractors which start on or after July 1, 2004); and

WHEREAS, Contractor either is (if not incorporated), or has (if incorporated) as its principal officer, a physician duly licensed and certified under the laws of the State of California to engage in the practice of medicine; and

WHEREAS, Contractor is either Board certified in his or her specialty(ies) or is eligible to take the examination to become Board certified in his or her specialty(ies); and

WHEREAS, Contractor has applied for and been granted membership in Medical Facility's Professional Staff Association and clinical privileges in accordance with such Association's bylaws; and

WHEREAS, County is authorized by California Government Code Sections 26227 and 31000, and by California Health and Safety Code Sections 1441, 1445, and 1451 to contract for the medical services described hereunder.

NOW, THEREFORE, the parties hereto agree as follows:

1. TERM AND TERMINATION:

A. The term of this Agreement shall commence on the date of Board approval, and, unless sooner cancelled or terminated as provided herein, shall continue in full force and effect to and including June 30, 2009. In any event, either party may terminate this Agreement at any time, for any reason, with or without cause, by providing at least thirty (30) calendar days prior written notice thereof to the other party.

B. Notwithstanding any other provision of this Agreement, County's Director of Health Services or his or her authorized designee (collectively hereafter "Director") may find Contractor out of compliance with this Agreement and immediately terminate this Agreement if Contractor has demonstrated a consistent failure to adhere to Medical Facility's policies, procedures, and contractual requirements, as outlined in this Agreement and in the Department of Health Services' and Medical Facility's Professional Staff Association bylaws, rules, and policy manuals.

C. County may suspend or terminate this Agreement immediately if Contractor's license to practice medicine is suspended or revoked by the State of California (Medical Board of California or California Board of Osteopathy, as appropriate).

D. County's failure to exercise any right of termination under this Paragraph shall not constitute waiver of such right and the same may be exercised at any subsequent time.

E. Director is authorized to execute any necessary or required suspension(s) or termination(s) pursuant to this Paragraph on behalf of County.

F. In conjunction with any suspension or termination of Agreement by County, Contractor understands and acknowledges that she/he shall have no right to any County administrative hearing or other County due process right under Medical Facility's bylaws or other County administrative forum to challenge or appeal such suspension or termination.

G. Unless earlier cancelled or terminated, this Agreement shall concurrently terminate on the date that County either (1) transfers the management and operation of Medical Facility, by sale or management contract (e.g., lease of Medical Facility), to a third party, or (2) closes Medical Facility.

2. ADMINISTRATION: Director is authorized to administer this Agreement on behalf of County.

3. DESCRIPTION OF SERVICES: Contractor shall provide medical services as set forth in Exhibit "A", attached hereto and incorporated herein by reference.

4. BILLING AND PAYMENT: Contractor shall bill County in accordance with the payment procedures set forth in Exhibit "A".

5. INDEPENDENT CONTRACTOR STATUS:

A. This Agreement is by and between County and Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between County and Contractor. The employees or agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

B. Contractor shall be solely liable and responsible for providing to, or on behalf of, its employees all legally required employee benefits. County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State and local taxes, or other compensation or benefits to any employees provided by Contractor.

C. Contractor understands and agrees that Contractor and all persons furnishing services to County on behalf of Contractor pursuant to this Agreement are, for purposes of workers' compensation liability, the sole responsibility of Contractor and not the responsibility of County. Contractor shall bear the sole responsibility and liability for any and all workers' compensation benefits to Contractor and any person as a result of injuries arising from or connected

with services performed by or on behalf of Contractor pursuant to this Agreement.

6. COUNTY PROFESSIONAL LIABILITY INDEMNIFICATION:

A. County shall indemnify, defend, and save harmless Contractor, its officers, and employees (for purposes of this Paragraph hereafter collectively referred to as "Contractor") from liability, expense and claims for damages resulting from or related to a medical incident arising out of the provision of contract services hereunder. For purposes of this Agreement, a medical incident shall mean any act or omission in the rendering of, or failure to render, medical services, or treatment to County patients by Contractor, at County's Medical Facility, in the performance of Contractor's professional obligations under this Agreement.

B. County's indemnification of Contractor hereunder shall only apply to payments of settlements, judgments, and awards to third parties, including legal defense expenses. County's indemnification of Contractor hereunder shall further only arise if Contractor's liability is to a County patient or the patient's representative, and the patient, at the time of the medical incident, was assigned to the care of Contractor. To the extent that County is obligated to provide an indemnification program hereunder, County will

also provide claims administration and legal defense on behalf of Contractor.

C. Contractor shall give prompt telephonic notice (within twenty-four [24] hours) to Medical Facility's Risk Manager of any incident, action, or claim to which this indemnification applies and shall cooperate fully with County and its claims representatives in any defense, settlement, or other disposition of such incident, action, or claim. Such telephonic notice shall be immediately followed by written notice to Medical Facility's Risk Manager. Such written notice shall include all of the information listed in County's Risk Management form. Contractor hereby acknowledges receipt of said County Risk Management form.

D. County reserves the right to investigate any incident, action, or claim. In such event, Contractor shall allow County representatives access to the medical records and reports pertaining to the services provided to any County patient involved in such incident, action, or claim. Contractor shall also allow County representatives access to its employees and agents, if any, who provided services to the County patients involved in such incident, action, or claim.

County's agents, as designated by Director, will consult with Contractor regarding the disposition of any action or

claim hereunder. However, County reserves the right to determine the final disposition of any action or claim. In the event Contractor does not agree with County's agents in any defense, settlement, or other disposition of such action or claim, Contractor may pursue defense, settlement, or other disposition of such action or claim independently and County's indemnification obligation with respect to such action or claim shall immediately terminate. In such event, County shall have no financial obligation on behalf of Contractor for liability, expenses, including legal defense fees and expenses, or payments of settlements, judgments, awards, or damages arising out of the medical incident.

E. County shall have no indemnification responsibility or liability for any incident, action, or claim against Contractor where Contractor failed to provide County with prompt telephonic and written notice of such incident, action, or claim, as specified in Subparagraph 6.C. above, or if Contractor has failed to fully and reasonably cooperate with County and its agents in the defense, settlement, or other disposition of such incident, action, or claim.

In addition, County shall have no indemnification responsibility or liability for any incident, action, or claim against Contractor by patients or their legal representatives, other than those covered specifically by

this Agreement. Moreover, this indemnification shall not cover Contractor's damages or expenses arising out of Contractor's willful or criminal misconduct, nor shall it cover the award of any punitive damages.

F. The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement for actions or claims against Contractor.

7. COUNTY GENERAL LIABILITY INDEMNIFICATION: As part of County's consideration under this Agreement, County shall indemnify, defend, and save harmless Contractor, its officers, and employees (in this Paragraph hereafter collectively referred to as "Contractor") from general liability, expense, and claims for damages of third parties resulting from or directly related to the provision of services at County's Medical Facility to County patients under this Agreement, except that this indemnification shall not extend to Contractor's willful or criminal misconduct or to any Contractor actions which result in the imposition of punitive damages. Nor shall this indemnification cover claims or actions against Contractor arising from Contractor's or his or her employees' negligent use of an automobile or other motor vehicle.

8. CONTRACTOR INDEMNIFICATION: With the exception of the professional liability indemnification and the general liability indemnification provided by County, as stated above, Contractor shall indemnify, defend, and hold harmless County and its Special

Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with Contractor's acts and/or omissions arising from and/or relating to this Agreement.

9. GENERAL INSURANCE REQUIREMENTS: Without limiting County's indemnification of Contractor, and during the term of this Agreement, Contractor shall provide the following programs of insurance specified in this Agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Contractor's own expense.

A. Evidence of Insurance: Certification(s) or other evidence of coverage satisfactory to County shall be delivered to the parties and locations as listed in Paragraph 12, NOTICES, Subparagraph A, Sub-sub paragraphs (1) and (2), prior to commencing services under this Agreement. Such certificates or other evidence shall:

- (1) Specifically identify this Agreement.
- (2) Clearly evidence all coverages required in this Agreement.
- (3) Contain the express condition that County is to be given written notice by mail at least thirty (30)

calendar days in advance of cancellation for all policies evidenced on the certificate of insurance.

(4) Pursuant to Paragraph 10, INSURANCE COVERAGE REQUIREMENTS, include copies of the additional insured endorsement to the commercial general liability policy, adding County of Los Angeles, its Special Districts, its officials, officers, and employees as insureds for all activities arising from this Agreement.

(5) Identify any deductibles or self-insured retentions for County's approval. County retains the right to require Contractor to reduce or eliminate such deductibles or self-insured retentions as they apply to County, or, require Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expense or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

B. Insurer Financial Ratings: Insurance is to be provided by an insurance company acceptable to County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.

C. Failure to Maintain Coverage: Failure by Contractor to maintain the required insurance, or to provide evidence

of insurance coverage acceptable to County, shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement. County, at its sole option, may obtain damages from Contractor resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance.

D. Notification of Incidents, Claims, or Suits:

Contractor shall report to County:

(1) Any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Contractor and/or County. Such report shall be made in writing within twenty-four (24) hours of occurrence.

(2) Any third party claim or lawsuit filed against Contractor arising from or related to services performed by Contractor under this Agreement.

(3) Any injury to a Contractor employee which occurs on County property. This report shall be submitted on a County "Non-Employee Injury Report" to County contract manager.

(4) Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies, or securities entrusted to Contractor under the terms of this Agreement.

E. Compensation for County Costs: In the event that Contractor fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County, Contractor shall pay full compensation for all costs incurred by County.

F. Insurance Coverage Requirements for Subcontractors: Contractor shall ensure any and all subcontractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

(1) Contractor providing evidence of insurance covering the activities of subcontractors, or

(2) Contractor providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

10. INSURANCE COVERAGE REQUIREMENTS:

A. General Liability Insurance. If Contractor maintains a private medical practice and County patients will receive services at the Contractor's private practice

location(s), then Contractor also shall maintain general liability insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

General Aggregate:	\$2 Million
Products/Completed Operations Aggregate:	\$1 Million
Personal and Advertising Injury:	\$1 Million
Each Occurrence:	\$1 Million

B. Automobile Liability Insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$300,000 for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".

C. Professional Liability Insurance: Consistent with Medical Facility's Professional Staff Associations' Bylaws governing physician services provided under community hospital status, if Contractor maintains a private medical practice and admits and treats his or her private patients at Medical Facility, or if Contractor maintains a private medical practice and County patients will receive services at the Contractor's private practice location(s), then Contractor shall provide for herself/himself/itself a program of professional liability insurance covering liability arising from any error, omission, negligent or wrongful act of Contractor, its officers or employees, with limits of not less than \$1 Million per occurrence and \$3

Million aggregate. The coverage also shall provide an extended two (2) year reporting period commencing upon termination or cancellation of this Agreement.

If Contractor does not maintain a private medical practice and does not admit or treat private patients at County's Medical Facility, or if Contractor maintains a private medical practice, but does not treat County patients at Contractor's private practice location(s), then Contractor need not provide for herself/himself/itself a program of professional liability insurance to cover services provided under this Agreement.

D. Workers Compensation and Employer's Liability Insurance: If Contractor utilizes any of its employees or agents in the provision of any medical services at Medical Facility hereunder, as set forth in Exhibit "A", Paragraph 4, then Contractor shall provide workers compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible.

In all cases, the above insurance also shall include Employers' Liability coverage with limits of not less than the following:

Each Accident:	\$1 Million
Disease - Policy Limit:	\$1 Million
Disease - Each Employee:	\$1 Million

11. COMPLIANCE WITH LIVING WAGE PROGRAM:

A. Living Wage Program: This Agreement is subject to the provisions of the County's ordinance entitled Living Wage Program ("Program") as codified in sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached hereto as Exhibit "B" and incorporated by reference into and made a part of Agreement.

B. Payment of Living Wage Rates:

(1) Unless Contractor has demonstrated to the County's satisfaction either that Contractor is not an "Employer" as defined under the Program (section 2.201.020 of the County Code) or that Contractor qualifies for an exemption to the Program (section 2.201.090 of the County Code), Contractor shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to the County under Agreement:

a. Not less than \$9.46 per hour, if, in addition to the per-hour wage, Contractor contributes less than \$1.14 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or

b. Not less than \$8.32 per hour if, in addition to the per-hour wage, Contractor contributes at least \$1.14 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. Contractor will be deemed to have contributed \$1.14 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time during Agreement, Contractor contributes less than \$1.14 per hour towards the provision of bona fide health care benefits, Contractor shall be required to pay its Employees the higher hourly living wage rate listed above.

(2) For purposes of this Section, "Contractor" includes any subcontractor engaged by Contractor to perform services for the County under Agreement. If Contractor uses any subcontractor to perform services for the County under the Contract, the subcontractor shall be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a copy of the Program shall be attached to the agreement. "Employee" means any individual who is

an employee of Contractor under the laws of California, and who is providing full-time services to Contractor, some or all of which are provided to the County under Agreement. "Full-time" means a minimum of forty (40) hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the County; however, fewer than thirty-five (35) hours worked per week will not, in any event, be considered full-time.

(3) If Contractor is required to pay a living wage when Agreement commences, Contractor shall continue to pay a living wage for the entire term of Agreement, including any option period.

(4) If Contractor is not required to pay a living wage when Agreement commences, Contractor shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement, and Contractor shall immediately notify County if Contractor at any time either comes within the Program's definition of "Employer" or if Contractor no longer qualifies for an exemption to the Program. In either event, Contractor shall immediately be required to commence paying the living wage and shall be obligated to pay

the living wage for the remaining term of Agreement, including any option period. County may also require, at any time during the Agreement and at its sole discretion, that Contractor demonstrate to County's satisfaction that Contractor either continues to remain outside of the Program's definition of "Employer" and/or that Contractor continues to qualify for an exception to the Program. Unless Contractor satisfies this requirement within the time frame permitted by the County, Contractor shall immediately be required to pay the living wage for the remaining term of Agreement, including any option period.

C. Contractor's Submittal of Certified Monitoring Reports: Contractor shall submit to County certified monitoring reports at a frequency instructed by County. The certified monitoring reports shall list all of Contractor's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by Contractor for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state the name and identification number of Contractor's current health care benefits plan, and Contractor's portion of the

premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on forms provided by County, or any other form approved by County which contains the above information. County reserves the right to request any additional information it may deem necessary. If County requests additional information, Contractor shall promptly provide such information. Contractor, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

D. County Auditing of Contractor Records: Upon a minimum of twenty-four (24) hours' written notice, County may audit, at Contractor's place of business, any of Contractor's records pertaining to Agreement, including all documents and information relating to the certified monitoring reports. Contractor is required to maintain all such records in California until the expiration of four (4) years from the date of final payment under Agreement. Authorized agents of County shall have access to all such records during normal business hours for the entire period that records are to be maintained.

E. Notification to Employees: Contractor shall place County-provided living wage posters at each of

Contractor's places of business and all locations where Contractor's Employees are performing services for the County. Contractor shall also distribute County-provided notices to each of its Employees at least once per year. Contractor shall translate the posters and handouts into Spanish and any other language spoken by a significant number of its Employees.

F. Enforcement and Remedies: If Contractor fails to comply with the requirements of this Section, County shall have the rights and remedies described in this Section in addition to any rights and remedies provided by law or equity.

(1) Remedies For Submission of Late or Incomplete Certified Monitoring Reports: If Contractor submits a certified monitoring report to County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of Agreement. In the event of any such breach, County may, in its sole discretion, exercise any or all of the following rights/remedies:

a. Withholding of Payment. If Contractor fails to submit accurate, complete, timely, and properly certified monitoring reports, County

may withhold from payment to Contractor up to the full amount of any invoice that would otherwise be due, until Contractor has satisfied the concerns of the County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b. Liquidated Damages. It is mutually understood and agreed that Contractor's failure to submit an accurate, complete, timely and properly certified monitoring report will result in damages being sustained by County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for Contractor's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being late, inaccurate, incomplete or uncertified, it is agreed that County may, in its sole discretion, assess

against Contractor liquidated damages in the amount of \$100 per monitoring report for each day until County has been provided with a properly prepared, complete and certified monitoring report. County may deduct any assessed liquidated damages from any payments otherwise due Contractor.

c. Termination. Contractor's continued failure to submit accurate, complete, timely and properly certified monitoring reports may constitute a material breach of Agreement. In the event of such material breach, County may, in its sole discretion, terminate the Contract.

(2) Remedies for Payment of Less Than the Required Living Wage: If Contractor fails to pay any Employee at least the applicable hourly living wage rate, such deficiency shall constitute a breach of Agreement. In the event of any such breach, County may, in its sole discretion, exercise any or all of the following rights/remedies:

a. Withholding Payment. If Contractor fails to pay one or more of its Employees at least the applicable hourly living wage rate, County may withhold from any payment otherwise due Contractor the aggregate difference between

the living wage amounts Contractor was required to pay its Employees for a given period and the amount actually paid to the Employees for that pay period. County may withhold said amount until Contractor has satisfied County that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b. Liquidated Damages. It is mutually understood and agreed that Contractor's failure to pay any of its Employees at least the applicable hourly living wage rate will result in damages being sustained by County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for Contractor's breach. Therefore, it is agreed that County may, in its sole discretion, assess against Contractor liquidated damages for \$50 per Employee per day

for each and every instance of an underpayment to an Employee. County may deduct any assessed liquidated damages from any payments otherwise due Contractor.

c. Termination. Contractor's continued failure to pay any of its Employees the applicable hourly living wage rate may constitute a material breach of Agreement. In the event of such material breach, County may, in its sole discretion, terminate Agreement.

(3) Debarment: In the event Contractor breaches a requirement of this Section, County may, in its sole discretion, bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach, not to exceed three (3) years.

G. Use of Full-Time Employees: Contractor shall assign and use full-time Employees of Contractor to provide services under the Agreement, unless Contractor can demonstrate to the satisfaction of County that it is necessary to use non-full-time Employees based on staffing efficiency or County requirements for the work to be performed under Agreement. It is understood and agreed that Contractor shall not, under any circumstance, use non-full-time Employees for services

provided under Agreement unless and until County has provided written authorization for the use of same. If required by County, Contractor has submitted or will submit a full-time-Employee staffing plan. If Contractor changes its full-time-Employee staffing plan, Contractor shall immediately provide a copy of the new staffing plan to County.

H. Contractor Retaliation Prohibited: Contractor and/or its Employees, shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any Employee, person, or entity who has reported a violation of the Program to the County or to any other public or private agency, entity, or person. A violation of the provisions of this Paragraph shall constitute a material breach of Agreement. In the event of such material breach, County may, in its sole discretion, terminate Agreement.

I. Contractor Standards: During the term of Agreement, Contractor shall maintain business stability, integrity in Employee relations, and the financial ability to pay a living wage to its Employees. If requested to do so by County, Contractor shall demonstrate to the satisfaction of County that Contractor is complying with this requirement.

J. Employee Retention Rights: (Note: this Paragraph applies only if the Agreement involves the provision of services that were previously provided by a contractor under a predecessor Proposition A agreement or by a predecessor cafeteria services contract, which predecessor agreement was terminated by County prior to its expiration.)

(1) Contractor shall offer employment to all retention employees who are qualified for such jobs.

A "retention employee" is an individual:

a. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act; and

b. Who has been employed by a contractor under a predecessor Proposition "A" contract or a predecessor cafeteria services contract with the County for at least six (6) months prior to the date of this Agreement, which predecessor contract was terminated by the County prior to its expiration; and

c. Who is or will be terminated from his or her employment as a result of the County entering into this new Agreement.

(2) Contractor is not required to hire a retention Employee who:

a. Has been convicted of a crime related to the job or his or her performance; or

b. Fails to meet any other County requirement for employees of a contractor.

(3) Contractor shall not terminate a retention employee for the first ninety (90) days of employment under Agreement, except for cause. Thereafter, Contractor may retain a retention employee on the same terms and conditions as Contractor's other Employees.

K. Neutrality in Labor Relations: Contractor shall not use any consideration received under Agreement to hinder, or to further, organization of, or collective bargaining activities by or on behalf of Contractor's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.

12. NOTICES: Any and all notices required, permitted, or desired to be given hereunder by one party to the other shall be in writing and may either be delivered personally or sent by registered or certified mail, postage prepaid, return receipt

requested, to the parties at the following addresses and to the attention of the parties named. Director is authorized to issue all notices which are required or permitted by County hereunder. Addresses and persons to be notified may be changed by either party by giving ten (10) calendar days prior written notice thereof to the other party.

A. Notices to County shall be addressed as follows:

(1) Martin Luther King, Jr./Drew Medical Center
12021 Wilmington Avenue
Los Angeles, California 90059

Attention: Office of the Administrator

(2) Department of Health Services
Contracts and Grants Division
313 North Figueroa Street, Sixth Floor-East
Los Angeles, California 90012

Attention: Division Chief

B. Notices to Contractor shall be addressed as follows:

13. ADDITIONAL PROVISIONS: Attached hereto and incorporated herein by reference, is a document labeled "ADDITIONAL PROVISIONS". The terms and conditions therein contained are part of this Agreement.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be subscribed by its Chair and the seal of said Board to be hereto affixed, and

attested by the Executive Officer thereof, and Contractor has caused this Agreement to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

COUNTY OF LOS ANGELES

By _____
Chair, Board of Supervisors

ATTEST:

VIOLET VARONA-LUKENS,
Executive Officer Board
of Supervisors of the
County of Los Angeles

Contractor

By _____

By _____
Deputy

Title: _____

APPROVED AS TO FORM:

COUNTY COUNSEL

By _____
Deputy

APPROVED AS TO CONTRACT
ADMINISTRATION:

DEPARTMENT OF HEALTH SERVICES

By _____
Irene E. Riley, Director
Contract Administration

AGRCD3862.PS

(Physician Services)
(All Facilities: On-Site Only)

EXHIBIT A

DESCRIPTION OF SERVICES

1. SERVICES TO BE PROVIDED: Contractor is a physician, duly licensed to practice medicine in the State of California, Board certified or Board eligible, in her/his specialty and has applied for and been granted medical staff privileges at Medical Facility, MARTIN LUTHER KING, JR./DREW MEDICAL CENTER. Contractor shall at all times meet the minimum professional qualifications defined in this Agreement.

For purposes of this Agreement, "County patients" are defined as those patients at Medical Facility who are designated as County patients by the County Medical Facility's Medical Director or his authorized designee (hereafter collectively "Medical Director"), who are inpatients or outpatients, and who are not admitted or treated by medical staff members as private patients under such Medical Facility's community hospital status.

Contractor's services shall be performed only for County patients, as defined above, and shall be under the administrative and professional direction of Medical Director. Medical Facility shall retain professional and administrative responsibility for the services provided under this Agreement. Such services include, but are not limited to, one or more of the following:

A. Emergency Medicine and related services at times and on dates scheduled in writing by Medical Director. Contractor's hours of service, however, may never exceed 1,681 hours per year (for Proposition A agreements, this sentence is inapplicable). Medical Facility shall maintain such schedules throughout the Agreement term and for a period of five (5) years thereafter for purposes of inspection and audit.

B. Consultation services to Medical Facility medical departments, other than department of primary assignment, concerning County patients, upon request of Medical Director.

C. Surgical services and appropriate pre-operative medical services (where applicable to Contractor's medical specialty) at Medical Facility, upon request of Medical Director.

D. Emergency medical services at Medical Facility, including weekends and holidays, upon request of Medical Director.

E. Administrative services, as requested by Medical Director, to include, but not be limited to:

- 1) Participating on Quality Assurance and Utilization Review Committees;
- 2) Participating on Medical Facility's medical staff committees;

3) Participating in Medical Facility's licensure and Joint Commission on the Accreditation of Healthcare Organization ("JCAHO") reviews;

4) Participating in Medical Facility's planning and equipment planning activities;

5) Participating in continuing medical education activities; and

6) Developing internal policies and procedures.

F. Such other medical services at Medical Facility as may be requested by Medical Director.

2. CONTRACTOR'S PROFESSIONAL QUALIFICATIONS:

A. Licenses: All physicians providing services at Medical Facility must be appropriately licensed by the State of California and each must carry her/his current State license (not a copy) while on County premises.

Prior to the effective date of this Agreement, Contractor shall provide Medical Director with a copy of all current licenses, credentials, or certifications required by law for the provision of services hereunder.

B. Board Certification: During the term of this Agreement, Contractor shall continuously have and maintain board certification or board eligibility in her/his specialty(ies) for which he or she has contracted to provide hereunder.

C. Credentialing Requirements: Contractor must meet the credentialing criteria set forth by Medical Facility prior to providing services under this Agreement. Among other things, Medical Director shall verify the current status of Contractor's licenses, medical clearance(s) (in accordance with Title 22, California Code of Regulations requirements), credentials, certifications, and claims history. Medical Director shall also query the National Data Bank and the State Medical Board about Contractor's background. Medical Director shall discontinue Contractor's services immediately if Contractor either does not meet Medical Facility's credentialing criteria, or Contractor's licenses, credentials, or certifications are not current, or both.

In the event Medical Facility inadvertently utilizes Contractor's services absent the appropriate licenses, credentials, or certifications, Medical Facility shall have no obligation to pay Contractor for services to patients hereunder.

D. Bloodborne Pathogens: Contractor must read and sign a statement that she/he has read the Occupational Safety and Health Agency ("OSHA") Bloodborne Pathogens Information packet prior to providing services under this Agreement. Medical Director shall retain such statement in Contractor's credentialing files.

Failure to comply with the requirements of this Paragraph, as determined by a Medical Facility audit/ compliance review, shall constitute a material breach of this Agreement upon which Director may immediately terminate this Agreement.

E. Joint Commission on the Accreditation of Healthcare Organizations Standards: Throughout the term of this Agreement, Contractor shall be in conformance with the applicable continuing education requirements established by JCAHO or the State Medical Board or both.

3. STANDARDS OF CARE:

A. All specialty medical services provided hereunder shall be performed in accordance with all applicable and accepted professional and ethical standards of the medical profession and shall be in compliance with all applicable Federal, State, and local laws, ordinances, regulations, rules, and directives, as well as with all applicable regulations, policies, procedures, rules, and directives of Medical Facility, and of its professional staff association.

B. County has established a Quality Assessment and Improvement Committee, composed of County employees appointed by Director to review the services contemplated by this Agreement and to assure a standard of care by Contractor and others which is consistent with the laws of the State and Federal governments, with County's Quality

Assessment and Improvement standards, and with the prevailing standards of medical practice in the community. Contractor agrees to adhere to the standards thereby established and to fully cooperate in any review of patient care by County's Quality Assessment and Improvement Committee representatives at Medical Facility.

4. USE OF EMPLOYEES AND AGENTS: Contractor shall not utilize any of its employees or agents in the provision of any medical services at Medical Facility hereunder without obtaining the prior written approval of Medical Director and without otherwise satisfying all other delegation and subcontracting requirements of Agreement. No such employee or agent shall provide services on County premises unless he or she has satisfied all applicable physical examination and immunization requirements of Title 22, California Code of Regulations.

In any event, Contractor shall immediately remove any Contractor employee or agent from the provision of such services at Medical Facility upon receipt of oral or written notice from Medical Director that the actions of such employee or agent may adversely affect the delivery of health care services.

Regardless of Contractor's use of any employee or agent hereunder, County shall only be obligated to pay for Contractor's personal services hereunder.

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5. COMPENSATION:

A. County shall compensate Contractor for his or her professional services performed at Medical Facility as follows: _____ Dollars (\$____) per each hour of service. (If services are paid on an hourly basis and if Contractor performs services for less than one [1] hour, payment for that hour shall be reduced by prorating to the number of minutes in the hour worked.)

The maximum compensation for a twelve (12) month period shall not exceed _____ Dollars (\$_____).

B. Contractor shall document services and hours rendered on County Contract Physician's Log forms provided by Medical Director.

Medical Director shall assure that such medical services were indeed provided and that Medical Facility maintains appropriate time records to reflect the provision of same.

C. In the event this Agreement is suspended, canceled, or terminated, County's payment obligation above shall cease as of the date of such suspension, cancellation, or termination.

D. Contractor shall pay the wages of his or her employees or agents who may render services hereunder as well as be responsible for all employment obligations and benefits for each employee, including, but not limited to,

Federal and State withholding taxes, Social Security taxes, Unemployment Insurance and Disability payments.

E. Contractor agrees that should it perform services not requested and specified in Paragraph 1 above, such services shall be deemed to be a gratuitous effort on the part of Contractor and Contractor shall have no claim against County for such services.

6. BILLING AND PAYMENT: Contractor shall bill County monthly or semi-monthly in arrears in accordance with procedures set forth below.

A. All billings to County shall include the date on which services were performed, the number of hours worked on each such date, and a description and itemization of the services performed.

B. All billings to County shall be in duplicate and forwarded to the attention of the Expenditure Management Division of Medical Facility. County shall pay Contractor within thirty (30) calendar days of receipt of a complete and correct invoice.

C. Contractor shall not bill any County patient or third-party for services provided under this Agreement; nor shall Contractor accept or receive any cash payment or other compensation from or on behalf of any such patient or third party for such services. Should any such payment be

received, Contractor shall immediately notify Medical Facility Administrator of that fact in writing.

D. Contractor shall fully cooperate with Medical Facility staff, and the staff of the County's Treasurer-Tax Collector or any County billing and collection contractor, in billing third-party payers and patients for care provided by Contractor hereunder.

7. PARKING SPACE: When providing services hereunder at Medical Facility, parking for Contractor's vehicle will be made available by Medical Director to Contractor.

(Proposition A)

EXHIBIT B

LIVING WAGE PROGRAM ORDINANCE

Title 2 ADMINISTRATION

Chapter 2.201 LIVING WAGE PROGRAM

2.201.010 Findings

2.201.020 Definitions

2.201.030 Prospective effect

2.201.040 Payment of living wage

2.201.050 Other provisions

2.201.060 Employer retaliation prohibited

2.201.070 Employee retention rights

2.201.080 Enforcement and remedies

2.201.090 Exceptions

2.201.100 Severability

2.201.010 Findings

The Board of Supervisors finds that the County of Los Angeles is the principal provider of social and health services within the County, especially to persons who are compelled to turn to the County for such services. Employers' failure to pay less than a living wage to their employees causes them to use such services thereby placing an additional burden on the County of Los Angeles. (Ord. 99-0048 § 1 (part), 1999).

2.201.020 Definitions

The general definitions contained in Chapter 2.02 shall be applicable to this Chapter unless inconsistent with the following definitions.

- A. "County" includes the County of Los Angeles, any County officer or body, any County Department head, and any County employee authorized to enter into a Proposition A contract or a cafeteria services contract with an employer.
- B. "Employee" means any individual who is an employee of an employer under the laws of California, and who is providing full time services to an employer, some or all of which are provided to the County of Los Angeles under a Proposition A contract, or under a cafeteria services contract at a County of Los Angeles owned or leased facility.
- C. "Employer" means:
 - 1. An individual or entity who has a contract with the County.
 - a. For services which is required to be more economical or feasible under Section 44.7 of the Charter of the County of Los Angeles, and is not listed as an excluded contract in Section 2.121.250 B of the Los Angeles County Code, referred to in this Chapter as a "Proposition A contract," or
 - b. For cafeteria services, referred to in this Chapter as a "cafeteria services contract," and

- c. Who has received or will receive an aggregate sum of \$25,000.00 or more in any 12 month period under one or more Proposition A contracts and/or one or more cafeteria services contracts; or
 - 2. An individual or entity that enters into a subcontract with an employer, as defined in subsection C1 and who employs employees to provide services under the employer's contract with the County.
- D. "Full Time" means a minimum 40 hours worked per week, or a lesser number of hours of the lesser number is a recognized industry standard and is approved as such by the Chief Administrative Officer, but in no event less than 35 hours worked per week. (Ord. 99-0048 § 1 (part), 1999.)

2.201.030 Prospective effect

This Chapter shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments the terms of which commence three (3) months or more after the effective date of this Chapter. *It shall not be applicable to Proposition A contracts or cafeteria services contracts or their amendments in effect before this chapter becomes applicable. (Ord. 99-0048 § 1 (part), 1999.) *Editor's note: Ordinance 99-0048, which enacted Ch. 2.201, is effective on July 22, 1999.

2.201.040 Payment of Living Wage

- A. Employers shall pay employees a living wage for their services provided to the County of no less than the hourly rates set under this Chapter. The rates shall be \$8.32 per hour with health benefits, or \$9.46 per hour without health benefits.
- B. To qualify for the living wage rate with health benefits, an employer shall pay at least \$1.14 per hour towards the provision of bona fide health care benefits for each employee and any dependents during the term of a Proposition A contract or a cafeteria services contract. Proof of the provision of such benefits must be submitted to the County for evaluation during the procurement process to qualify for the lower living wage rate in subsection A of this section. Employers who provide health care benefits to employees through the County Department of Health Services Community Health Plan are deemed to have qualified for the lower living wage rate in subsection A of this section.
- C. The Board of Supervisors may, from time to time, adjust the amounts specified in subsection A and B of this section, above for future contracts. (Ord. 99-0048 § 1 (part), 1999.)

2.201.050 Other provisions

- A. Full Time Employees. An employer shall assign and use full time employees to provide services under a Proposition A

contract or a cafeteria services contract, unless the employer can demonstrate to the County the necessity to use non-full time employees based on staffing efficiency or the County requirements of an individual job.

- B. Neutrality in Labor Relations. An employer shall not use any consideration received under a Proposition A contract or a cafeteria services contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of an employer's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.
- C. Administration. The Chief Administrative Officer shall be responsible for the administration of this Chapter. The Chief Administrative Officer, may, with the advice of County Counsel, issue interpretations of the provision of this Chapter. The Chief Administrative Officer in conjunction with the Affirmative Action Compliance Officer shall issue written instructions on the implementation and on-going administration of this Chapter. Such instructions may provide for the delegation of functions to other County departments.

- D. Compliance Certification. An employer shall, during the term of a Proposition A contract, or a cafeteria services contract, report for each employee and certify the hours worked, wages paid, and amounts the employer paid for health benefits, and provide other information deemed relevant to the enforcement of this Chapter by the County. Such reports shall be made at the times and in the manner set forth in instructions issued by the Chief Administrative Officer in conjunction with the Affirmative Action Compliance Officer. The Affirmative Action Compliance Officer in conjunction with the Chief Administrative Officer shall report annually to the Board of Supervisors on Contractor compliance with the provisions of this Chapter.
- E. Contractor Standards. An employer shall demonstrate during the procurement process and for the duration of a Proposition A contract or a cafeteria services contract a history of business stability integrity in employee relations, and the financial ability to pay a living wage (Ord. 99-0048 § 1 (part)).

2.201.060 Employer Retaliation Prohibited

No employer shall take an adverse action causing a loss of any benefit of employment, of any contract benefit, or any statutory benefit to any employee, person, or other entity, who has reported a violation of this Chapter to the Board of Supervisors

or to one or more of their offices, to the County Chief Administrative Officer, or to the County Auditor Controller, or to the County department administering the Proposition A contract or cafeteria services contract. (Ord. 99-0048 § 1 (part) 1999.)

2.201.070 Employee retention rights

In the event that any Proposition A contract or cafeteria service contract is terminated by the County prior to its expiration, any new contract with a subsequent employer for such services shall provide for the employment of the predecessor employer's employees as provided in this section.

A. A "retention employee" is an employee of a predecessor employer.

1. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act.
2. Who has been employed by an employer under a predecessor Proposition A contract or a predecessor cafeteria services contract for at least six (6) months prior to the date of a new contract, and
3. Who is or will be terminated from his or her employment as a result of the County entering into a new contract.

B. Subsequent employers shall offer employment to all retention employees who are qualified for such jobs.

- C. A subsequent employer is not required to hire a retention employee who.
 - 1. Has been convicted of a crime related to the job or his or her job performance; or
 - 2. Fails to meet any other County requirement for employees of a Contractor.
- D. A subsequent employer may not terminate a retention employee for the first 90 days of employment under a new contract, except for cause. Thereafter a subsequent employer may retain a retention employee on the same terms and conditions as the subsequent employer's other employees. (Ord. 99-0048 § (part), 1999.)

2.201.080 Enforcement and remedies

For violation of any of the provisions of this Chapter:

- A. An employee may bring an action in the courts of the State of California for damages caused by an employer's violation of this Chapter.
- B. The County Department head responsible for administering a Proposition A contract or a cafeteria services contract may do one or more of the following in accordance with such instructions as may be issued by the Chief Administrative Officer.
 - 1. Assess liquidated damages as provided in the contract; and/or

2. Recommend to the Board of Supervisors the termination of the contract; and/or
3. Recommend to the Board of Supervisors that an employer be barred from award of future County contracts for a period of time consistent with the seriousness of the employer's violation of this chapter, not to exceed three (3) years. (Ord. 99-0048 § 1 (part), 1999.)

2.201.090 Exceptions

- A. Other Laws. This Chapter shall not be interpreted or applied to any employer or to any employee in a manner inconsistent with United States or California laws.
- B. Collective Bargaining Agreements. Any provision of this Chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. This Chapter shall not be applied to any employer which is a nonprofit corporation qualified under Section 501(c)(3) of the Internal Revenue Code.
- D. Small Businesses. This Chapter shall not be applied to any employer which is business entity organized for profit, including but not limited to any individual, partnership, corporation, joint venture, association or cooperative, which entity:
 1. Is not an affiliate or subsidiary of a business dominant in its field of operation; and

2. Has 20 or fewer employees during the contract period, including full-time and part-time employees; and
3. Does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$1,000,000.00; or
4. If the business is a technical or professional service, does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$2,500,000.00.

"Dominant in its field of operation" means having more than 20 employees, including full time and part time employees, and more than \$1,000,000.00 in annual gross revenues or \$2,500,000.00 in annual gross revenues if a technical or professional service.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord 99-0055 § 1, 1999: Ord 99-0048 § 1 (part), 1999.)

2.201.100 Severability

If any provision of this Chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect (Ord. 99-0048 § 1 (part), 1999.).

(January 1, 2005)

ADDITIONAL PROVISIONS

SPECIALTY MEDICAL SERVICES AGREEMENT

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ADDITIONAL PROVISIONS

SPECIALTY MEDICAL SERVICES AGREEMENT

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ADDITIONAL PROVISIONS

SPECIALTY MEDICAL SERVICES AGREEMENT

1. RECORDS AND AUDITS:

A. Financial Records: Contractor shall prepare and maintain accurate and complete financial records of its activities and operations as they relate to services provided under this Agreement in accordance with generally accepted accounting principles. Contractor shall also maintain accurate and complete personnel time records and other records of all services provided hereunder. All such records shall include supporting documentation and other information sufficient to fully and accurately reflect Contractor's provision of services hereunder, including, but not limited to, its cost of providing such services and all charges billed to County.

All financial records of Contractor pertaining to this Agreement shall be retained by Contractor for a minimum period of five (5) years following the expiration or earlier termination of this Agreement. During such five (5) years, as well as during the term of this Agreement, all such records shall be retained by Contractor at a location in Southern California and shall be made available during County's normal business hours to representatives of County's Auditor-Controller and the Department of Health Services for purposes of inspection and audit.

B. Patient Records: Contractor shall prepare all appropriate medical records for County patients receiving services hereunder. If a County patient receives services from Contractor at Contractor's private office (a possibility for High Desert Hospital patients only), then Contractor shall also maintain such records on any such patient. Such records shall include, but are not limited to, progress notes and records of services provided in sufficient detail to permit the evaluation of services rendered pursuant to this Agreement. All patient records for patients seen in Contractor's office shall be retained by Contractor for a period of five (5) years following the expiration or earlier termination of this Agreement, unless otherwise required under State law. During such five (5) year period, as well as during the term of this Agreement, all such records shall be retained by Contractor at a location in Los Angeles County and shall be made available upon ten (10) working days prior written notice to authorized representatives of County designated by Director or by County's Auditor-Controller, or both, for purposes of inspection and audit.

C. Knox-Keene Health Care Services Requirements: If Contractor provides medical services hereunder at its private offices, Contractor shall further maintain all applicable books, documents, and records regarding services

rendered to subscribers or enrollees of the Los Angeles County Community Health Plan for a period of five (5) years following the expiration or earlier termination of this Agreement. This obligation shall not be terminated upon expiration or termination of this Agreement.

Director shall have the right to inspect, at reasonable times upon demand during the term of this Agreement and for five (5) years thereafter, Contractor's books, records, and papers relating to: (1) the provisions of health services at Contractor's office to subscribers or enrollees of the Los Angeles County Community Health Plan, (2) the costs thereof, (3) co-payments received by Contractor from subscribers or enrollees and, (4) the financial condition of Contractor.

Contractor shall maintain such records and provide such information to the Commissioner of Corporations as may be necessary for compliance with the provisions of the Knox-Keene Health Care Service Plan Act of 1975 (California Health and Safety Code sections 1340, et seq.) and all rules and regulations adopted pursuant thereto.

D. Federal Access to Records: If, and to the extent that, section 1861(v)(1)(I) of the Social Security Act [42 U.S.C. section 1395(v)(1)(I)] is applicable, Contractor agrees that for a period of five (5) years following the furnishing of services under this Agreement, Contractor shall maintain and make available, upon written request, to

the Secretary of the United States Department of Health and Human Services or the Comptroller General of the United States, or to any of their duly authorized representatives, the contract, books, documents, and records of Contractor which are necessary to verify the nature and extent of the cost of services provided hereunder. Furthermore, if Contractor carries out any of the services provided hereunder through a subcontract with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve month period with a related organization (as that term is defined under Federal law), Contractor agrees that each such subcontract shall provide for such access to the subcontract, books, documents, and records of the subcontractor.

E. Audit Report: In the event that an audit is conducted of Contractor by a Federal or State auditor (including audits conducted by the Medicare and Medi-Cal programs, or both), Contractor shall file a copy of each such audit report(s) with County's Auditor-Controller Department within thirty (30) calendar days of receipt thereof, unless otherwise provided for under this Agreement, or under applicable State or Federal regulations. To the extent permitted by law, County shall maintain the confidentiality of all such audit report(s).

F. Audit/Compliance Review: In the event County representatives conduct an audit/compliance review of

Contractor, Contractor shall fully cooperate with County's representatives. Contractor shall allow County representatives access to all financial reports, medical records, and reports pertaining to this Agreement and shall allow photocopies to be made of these documents utilizing Contractor's photocopier, for which County shall reimburse Contractor its customary charge for record copying services, if requested. Director shall provide Contractor with at least ten (10) working days prior written notice of any audit/compliance review.

County may conduct a statistical audit/compliance review of all claims paid by County during a specified period. The sample shall be determined in accordance with generally accepted auditing standards. An exit conference shall be held following the performance of any such audit/compliance review at which time the results shall be discussed with Contractor. Contractor shall be provided with a copy of any resultant written evaluation report(s).

Contractor shall have the opportunity to review County's findings for Contractor, and Contractor shall have thirty (30) calendar days after receipt of County's audit/compliance review results to provide documentation to the County representatives to resolve audit exceptions. If, at the end of the thirty (30) day period there remain audit exceptions which have not been resolved to the satisfaction

of County's representatives, then the exception rate found in the audit or sample results shall be applied to the total County payments made to Contractor for all claims paid during the audit/compliance review period to determine Contractor's liability to County.

G. County Audit Settlements: If, at any time during the term of this Agreement or at any time within five (5) years after the expiration or earlier termination of this Agreement, authorized representatives of County conduct an audit of Contractor regarding the services provided to County hereunder and if such audit finds that County's dollar liability for such services is less than payments made by County to Contractor, then Contractor agrees that the difference shall be either: (1) repaid forthwith by Contractor to County by cash payment, or (2) at Director's option, deducted from any further amount due to Contractor from County. If such audit finds that County's dollar liability for services provided hereunder is more than payments made by County to Contractor, then the difference shall be paid forthwith by County to Contractor by cash payment.

H. Failure to Comply: Failure of Contractor to comply with the requirements of this Paragraph shall constitute a material breach of this Agreement upon which County shall give Contractor a written "Notice of Material Breach". If

such breach has not been cured within ten (10) business days following the giving of such Notice, then County may, at County's sole discretion, immediately terminate this Agreement pursuant to the provisions of Paragraph 1, TERM AND TERMINATION, in the body of this Agreement. County's failure to exercise this right of termination shall not constitute waiver of such right, and the same may be exercised at any subsequent time.

2. CONFIDENTIALITY: Contractor shall maintain the confidentiality of all records and information, including, but not limited to, billings, County records and patient records, in accordance with all applicable Federal, State, and local laws, ordinances, regulations, and directives relating to confidentiality. Contractor shall inform all its officer, employees, and agents, providing services hereunder of the confidentiality provisions of this Agreement. Contractor shall indemnify and hold harmless County, its officers, employees, and agents, from and against any and all loss, damages, liability, and expense arising out of any disclosure of such records and information by Contractor, its officer, employees, and agents.

County shall indemnify and hold harmless Contractor, its officers, employees, and agents, from and against any and all loss, damages, liability, and expense arising out of any disclosure of such records and information by County, its officers, employees, or agents.

3. NONDISCRIMINATION IN SERVICES: Contractor shall not discriminate in the provision of services hereunder because of race, color, religion, national origin, ancestry, sex, age, sexual orientation, or physical or mental handicap, in accordance with requirements of Federal and State law. For the purpose of this Paragraph, discrimination in the provision of services may include, but is not limited to, the following: denying any person any service or benefit or the availability of a facility; providing any service or benefit to any person which is different, or is provided in a different manner, or at a different time, from that provided to others; subjecting any person to segregation or separate treatment in any matter related to the receipt of any service; restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and treating any person differently from others in determining admission, enrollment quota, eligibility, membership, or any other requirement or conditions which persons must meet in order to be provided any service or benefit. Contractor shall take affirmative action to ensure that intended beneficiaries of this Agreement are provided services without regard to race, color, religion, national origin, ancestry, sex, age, sexual orientation, or physical or mental handicap.

4. NONDISCRIMINATION IN EMPLOYMENT:

A. Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries or holding companies are and will be treated equally by it without regard to, and will not be discriminated against because of, race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, in compliance with all applicable anti-discrimination laws and regulations of the United States of America and the State of California as they now exist or may hereafter be amended.

B. Contractor shall take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment without regard to, and will not be discriminated against because of race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, in compliance with all applicable anti-discrimination laws and regulations of the United States of America and the State of California as they now exist or may hereafter be amended. Such action shall include, but is not limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

C. Contractor shall deal with its subcontractors, bidders or vendors without regard to, and will not be

discriminated against because of race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, as required by all applicable anti-discrimination laws and regulations of the United States of America and the State of California as they now exist or may hereafter be amended.

D. Contractor shall allow County representatives access to its employment records during regular business hours to verify compliance with these provisions when so requested by Director. Prior to any such inspection, Contractor may remove personal employee information from such records which is protected under the privacy laws of the State of California. To the extent any such information may come into the possession of County during such an inspection, County hereby promises to protect same from disclosure to third parties.

E. If County finds that any of the above provisions have been violated, the same shall constitute a material breach of Agreement upon which County may determine to cancel, terminate, or suspend this Agreement. While County reserves the right to determine independently that the anti-discrimination provisions of this Paragraph have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Opportunity Commission that Contractor has violated Federal

or State anti-discrimination laws or regulations shall constitute a finding by County that Contractor has violated the anti-discrimination provisions of this Paragraph.

F. The parties agree that in the event Contractor violates the anti-discrimination provisions of this Paragraph, County shall, at its option, be entitled to a sum of Five Hundred Dollars (\$500) per violation or group of such violations investigated, pursuant to Civil Code section 1671 as liquidated damages in lieu of terminating or suspending this Agreement.

G. The parties understand and agree that the liquidated damages payable pursuant to Subparagraph 4.F. above are meant to compensate County for the costs of each investigation of violation(s) of the anti-discrimination provisions of this Paragraph, and therefore, the parties agree that the basis for assessing liquidated damages for purposes of Sub-paragraph 4.F. above shall be the number of investigative reports submitted to Director, provided that no violation may be covered in more than one report. Director shall use his best efforts to insure that violations will be grouped together whenever possible for purposes of investigation.

5. LICENSES, PERMITS, REGISTRATIONS, AND CERTIFICATES:

Contractor shall obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations, and

certificates required by law for the operation of its medical practice and for the provision of services pursuant to this Agreement. Contractor shall ensure that all its officers, employees, and agents who perform services hereunder, obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations, and certificates required by law which are applicable to their performance of services hereunder. Such licenses, permits, registrations, and certificates shall be made available to Director upon request.

6. RULES AND REGULATIONS: During the time the Contractor, its officers, employees, or agents are at Medical Facility, Contractor and such persons shall be subject to the rules and regulations of Medical Facility. It is the responsibility of Contractor to acquaint itself and such persons who may provide services hereunder with such rules and regulations. Contractor shall immediately and permanently withdraw any of its officers, employees, or agents from the provision of services hereunder upon receipt of written notice from Director that (a) such officer(s), employee(s), or agent(s) has (have) violated such rules and regulations, or (b) such officer's, employee's, or agent's actions, while on County premises, may harm County patients. Director shall provide Contractor with a written statement of the facts supporting any such violation or action.

7. STAFF PERFORMANCE WHILE UNDER THE INFLUENCE: Contractor shall use its best efforts to ensure that no employee or

physician, including Contractor, will perform services hereunder while under the influence of any alcoholic beverage, medication, narcotic, or other substance that might impair her/his physical or mental performance.

8. CONTRACTOR PERFORMANCE DURING DISASTER OR CIVIL UNREST: Contractor recognizes that health care facilities maintained by County, including shelters and relief facilities operated by County during a disaster, provide care essential to the residents of the communities they serve and that these services are of particular importance at the time of a natural disaster or other similar event, or at the time of riot, insurrection, or civil unrest. Notwithstanding any other provision of this Agreement, Contractor shall continue to provide services at Medical Facility and, if requested to do so by Director, shall also provide services at County-operated shelters and relief facilities, during any natural disaster or other similar event, riot, insurrection or civil unrest, so long as such performance remains physically possible.

Director shall provide Contractor with an explanation of the services and responsibilities required of Contractor in the event of a disaster or civil unrest.

9. UNLAWFUL SOLICITATION: Contractor shall inform all of its officers, employees, and agents providing services hereunder of the provisions of Article 9 of Chapter 4 of Division 3 (commencing with section 6150) of the California Business and

Professions Code (i.e., State Bar Act provisions regarding unlawful solicitation as a runner or capper for attorneys) and shall take positive and affirmative steps in its performance hereunder to ensure that there is no violation of said provisions by its officers, employees, and agents. Contractor agrees that if a patient requests assistance in obtaining the services of any attorney, it will refer the patient to the attorney referral service of those bar associations within Los Angeles County that have such a service.

10. CONFLICT OF INTEREST: No County officer or employee whose position in County enables him/her to influence the award or the administration of this Agreement or any competing agreement, and no spouse or economic dependent of such officer or employee, shall be employed in any capacity by Contractor herein, or have any other direct or indirect financial interest in this Agreement.

No officer or employee of Contractor who may financially benefit from the provision of services hereunder shall in any way participate in County's approval, or ongoing evaluation, of such services, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such services.

Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. Contractor warrants that it is not now aware of any facts which create a conflict of

interest. If Contractor hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to Director. Full written disclosure shall include, without limitation, identification of all persons involved and complete description of all relevant circumstances.

11. COVENANT AGAINST CONTINGENT FEES:

A. Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business.

B. For breach or violation of this warranty, County shall have the right to terminate this Agreement and, in its sole discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, or brokerage or contingent fee.

12. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION:

Contractor shall not assign its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of County. Any assignment or delegation which does not have such prior County consent shall be null and void.

13. COMPLIANCE WITH APPLICABLE LAW:

A. Contractor shall comply with all Federal, State, and local laws, ordinances, regulations, and directives applicable to its performance hereunder. Further, all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference.

B. Contractor shall indemnify and hold harmless County, its officers, employees and agents from and against any and all loss, damage, liability, or expense resulting from any violation on the part of Contractor, its officers, employees, or agents of such Federal, State, or local laws, ordinances, regulations, or directives.

14. AUTHORIZATION WARRANTY: Contractor hereby represents and warrants that the person executing this Agreement for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation set forth in this Agreement and that all requirements of Contractor have been fulfilled to provide such actual authority.

15. FAIR LABOR STANDARDS: Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend, and hold harmless County, its officers, employees, and agents from any and all liability including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law including, but not limited to, the

Federal Fair Labor Standards Act for services performed by Contractor's employees for which County may be found jointly or solely liable.

16. EMPLOYMENT ELIGIBILITY VERIFICATION: Contractor warrants that it fully complies with all Federal statutes and regulations regarding employment of aliens and others, and that all its employees performing services hereunder meet the citizenship or alien status requirements contained in Federal statutes and regulations. Contractor shall obtain, from all covered employees performing services hereunder, all verification and other documentation of employment eligibility status required by Federal statutes and regulations as they currently exist and as they may be hereafter amended. Contractor shall retain such documentation for all covered employees for the period prescribed by law. Contractor shall indemnify, defend, and hold harmless County, its officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County in connection with any alleged violation of Federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this Agreement.

17. RESTRICTIONS ON LOBBYING: If any federal monies are to be used to pay for Contractor's services under this Agreement, Contractor shall comply with all certification and disclosure requirements prescribed by section 319, Public Law 101-121 (31 United States Code section 1352) and any implementing regula-

tions, and shall ensure that each of its subcontractors receiving funds provided under this Agreement also fully comply with all such certification and disclosure requirements.

18. COUNTY LOBBYISTS: Each County lobbyist as defined in Los Angeles County Code section 2.160.010, retained by Contractor, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of any County lobbyist retained by Contractor to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend this Agreement.

19. MERGER PROVISION: The body of this Agreement, including all the exhibits and attachments thereto, fully express all understandings of the parties concerning all matters covered and shall constitute the total Agreement. No addition to, or alteration of, the terms of this Agreement whether by written or verbal understanding of the parties, their officers, agents, or employees, shall be valid unless made in the form of a written amendment to this Agreement which is formally approved and executed by the parties.

20. SEVERABILITY: If any provision of this Agreement, including any provision in an exhibit, or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

21. TERMINATION FOR IMPROPER CONSIDERATION: County may, by written notice to Contractor, immediately terminate the right of Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment, or extension of the Agreement, or the making of any determinations with respect to Contractor's performance pursuant to the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

Contractor shall immediately report any attempt by a County officer, employee, or agent to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

22. COUNTY'S QUALITY ASSURANCE PLAN: Director will evaluate Contractor's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing

Contractor's compliance with all contract terms and performance standards. Contractor deficiencies which Director determines are severe or continuing and that may place performance of this Agreement in jeopardy if not corrected will be reported to the County Board of Supervisors. The report will include improvement/corrective action measures taken by County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this Agreement or impose other penalties as specified in this Agreement.

23. CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM: Contractor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through County contracts are in compliance with their court-ordered child, family, and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Contractor's duty under this Agreement to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act [42 USC Section 653 (a)] and California Unemployment Insurance Code Section 1088.55, and shall implement all lawfully served Wage and Earnings

Withholding Orders or Child Support Services Department ("CSSD") Notices of Wage and Earnings Assignment for Child, Family, or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246 (b).

24. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM:

Failure of Contractor to maintain compliance with the requirements set forth in the CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM Paragraph immediately above, shall constitute default under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure of Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which County may terminate this Agreement pursuant to the TERM AND TERMINATION Paragraph of this Agreement, and pursue debarment of Contractor pursuant to County Code Chapter 2.202.

25. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT: Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

26. CONTRACTOR'S EXCLUSION FROM PARTICIPATING IN A FEDERALLY FUNDED PROGRAM: Contractor hereby warrants that neither it or any of its staff members is restricted or excluded from providing services under any health care program funded by the Federal government, directly or indirectly, in whole or in part, and that Contractor will notify Director within thirty (30) calendar days in writing of: (1) any event that would require Contractor or a staff member's mandatory exclusion from participation in a Federally funded health care program; and (2) any exclusionary action taken by any agency of the Federal government against Contractor or one or more of its employees, agents, or staff members barring it or the employee(s), agent(s), or member(s) from participating in a Federally funded health care program, whether such bar is direct or indirect, or whether such bar is in whole or in part.

Contractor shall indemnify and hold County harmless against any and all loss or damage County may suffer arising from any Federal exclusion of Contractor or its staff members from such participation in a Federally funded health care program.

Failure by Contractor to meet the requirements of this Paragraph shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement.

27. CONTRACTOR'S WILLINGNESS TO CONSIDER COUNTY'S EMPLOYEES FOR EMPLOYMENT: Contractor agrees to receive referrals from County's Department of Human Resources of qualified permanent

employees who are targeted for layoff or qualified former employees who have been laid off and are on a re-employment list during the life of this Agreement. Such referred permanent or former County employees shall be given first consideration of employment as Contractor vacancies occur after the implementation and throughout the term of this Agreement.

Notwithstanding any other provision of this Agreement, the parties do not in any way intend that any person shall acquire any rights as a third party beneficiary of this Agreement.

28. CONSIDERATION OF COUNTY'S DEPARTMENT OF PUBLIC SOCIAL SERVICES ("DPSS") GREATER AVENUES FOR INDEPENDENCE ("GAIN") PROGRAM OR GENERAL RELIEF OPPORTUNITY FOR WORK ("GROW")

PARTICIPANTS FOR EMPLOYMENT: Should Contractor require additional or replacement personnel after the effective date of this Agreement, Contractor shall give consideration for any such employment openings to participants in County's DPSS GAIN or GROW program(s), who meet Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that Contractor will interview qualified candidates. County will refer GAIN/GROW participants by job category to Contractor. In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

29. SERVICE DELIVERY SITE - MAINTENANCE STANDARDS:
Contractor shall assure that the locations (i.e., facilities)

where services are provided under provisions of this Agreement are operated at all times in accordance with County community standards with regard to property maintenance and repair, graffiti abatement, refuse removal, fire safety, landscaping, and in full compliance with all applicable local laws, ordinances, and regulations relating to the property. County's periodic monitoring visits to Contractor's facility(ies) shall include a review of compliance with the provisions of this Paragraph.

30. CONTRACTOR RESPONSIBILITY AND DEBARMENT:

A. A responsible contractor is a contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the contract. It is County's policy to conduct business only with responsible contractors.

B. Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if County acquires information concerning the performance of Contractor on this or other contracts which indicates that Contractor is not responsible, County may, in addition to other remedies provided under this Agreement, debar Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time not to exceed three (3) years, and terminate any or all existing contracts Contractor may have with County.

C. County may debar Contractor if the Board of Supervisors finds, in its discretion, that Contractor has done any of the following: (1) violated a term of a contract with County or a nonprofit corporation created by County, (2) committed any act or omission which negatively reflects on Contractor's quality, fitness, or capacity to perform a contract with County, any other public entity, or a nonprofit corporation created by County, or engage in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against County or any other public entity.

D. If there is evidence that Contractor may be subject to debarment, the Department will notify Contractor in writing of the evidence which is the basis for the proposed debarment and will advise Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

E. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. Contractor and/or Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether Contractor should be

debarred, and, if so, the appropriate length of time of the debarment. Contractor and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.

F. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contract Hearing Board.

G. These terms shall also apply to any subcontractors of Contractor.

31. COMPLIANCE WITH HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996: The parties acknowledge the existence of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations ("HIPAA"). Contractor understands and agrees that, as a provider of medical treatment services, it is a "covered entity" under HIPAA and, as such, has obligations with respect to the confidentiality, privacy and security of patients' medical information, and must take certain steps to preserve the confidentiality of this information, both internally and externally, including the training of its staff and the establishment of proper procedures

for the release of such information, and the use of appropriate consents and authorizations specified under HIPAA.

The parties acknowledge their separate and independent obligations with respect to HIPAA, and that such obligations relate to transactions and code sets, privacy, and security. Contractor understands and agrees that it is separately and independently responsible for compliance with HIPAA in all these areas and that County has not undertaken any responsibility for compliance on Contractor's behalf. Contractor has not relied, and will not in any way rely, on County for legal advice or other representations with respect to Contractor's obligations under HIPAA, but will independently seek its own counsel and take the necessary measures to comply with the law and its implementing regulations.

Contractor and County understand and agree that each is independently responsible for HIPAA compliance and agree to take all necessary and reasonable actions to comply with the requirements of the HIPAA law and implementing regulations related to transactions and code sets, privacy, and security. Each party further agrees to indemnify and hold harmless the other party (including their officers, employees, and agents), for its failure to comply with HIPAA.

32. SAFELY SURRENDERED BABY LAW: Contractor shall notify and provide to each of its officers, employees, and agents, and shall require that each of Contractor's subcontractors providing

services under this Agreement also notify and provide to each of its officers, employees, and agents, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. County's fact sheet is available on the Internet at www.babysafela.org for printing and review purposes. Further, Contractor acknowledges that County places a high priority on the implementation of the Safely Surrendered Baby Law. Contractor understands that it is County's policy to encourage Contractor and all of its sub-contractors, providing services under this Agreement, if any, to voluntarily post County's "Safely Surrendered Baby Law" poster in a prominent position at their place of business. County's Department of Children and Family Services will supply Contractor with the poster to be used.

33. USE OF RECYCLED-CONTENT PAPER: Consistent with County's Board of Supervisors policy to reduce the amount of solid waste deposited at County landfills, Contractor agrees to use recycled-content bond paper and paper products to the maximum extent possible in connection with services to be performed by Contractor under this Agreement.